

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DESIRAE SCOTT, *et al.*,  
Plaintiffs,  
v.  
ANTONIA HEREDIA, *et al.*,  
Defendants.

Case No. 1:24-cv-01067-KES-CDB  
ORDER DENYING COUNSEL FOR  
PLAINTIFFS' MOTION TO WITHDRAW  
(Doc. 59)

**Background**

Plaintiffs Desirae Scott, Jonathan Williams, and minors S.W. and D.W., through guardian ad litem Desirae Scott, initiated this action with the filing of a complaint on September 7, 2024. (Doc. 1).

On January 5, 2026, counsel for Plaintiffs Quoc T. Pham filed a motion to withdraw as counsel, supported by a declaration. (Docs. 59, 59-1). By his supporting declaration, counsel represents that, for the past two months, he has been unable to communicate with Plaintiffs, that there is a new conflict of interest, that he has informed the adult Plaintiffs he must withdraw from this action and of their options for finding another attorney but has not received any response, and that he has the last known addresses for Plaintiffs, as well as their contact information, for purposes of notice regarding the instant motion. (Doc. 59 at 3; Doc. 59-1 at 2).

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1           **Governing Authority**

2           The decision to grant or deny an attorney’s motion to withdraw is ultimately committed to  
3 the discretion of the trial court. *United States v. Carter*, 560 F.3d 1107, 1113 (9th Cir. 2009). “In  
4 ruling on a motion to withdraw as counsel, courts consider (1) the reasons why withdrawal is  
5 sought; (2) the prejudice withdrawal may cause to other litigants; (3) the harm withdrawal might  
6 cause to the administration of justice; and (4) the degree to which withdrawal will delay the  
7 resolution of the case.” *Beard v. Shuttermart of Cal., Inc.*, No. 3:07-cv-00594-WQH-NLS, 2008  
8 WL 410694, at \*2 (S.D. Cal. Feb. 13, 2008) (citing *Nat’l Career Coll., Inc. v. Spellings*, No. 07-  
9 cv-00075-HG-LK, 2007 WL 2048776, at \*2 (D. Haw. July 11, 2007)); *see CE Res., Inc. v.*  
10 *Magellan Grp., LLC*, No. 2:08-cv-02999-MCE-KJM, 2009 WL 3367489, at \*2 (E.D. Cal. Oct. 14,  
11 2009) (noting that “[u]ltimately, the court’s ruling must involve a balancing of the equities”).

12           In addition to the above factors, withdrawal of counsel is governed by the Local Rules.  
13 Local Rule 182(d) provides that if withdrawal would leave a client without counsel, an attorney  
14 must file a formal motion and provide the client and all other parties with notice of the motion to  
15 withdraw. *Id.* The attorney must also submit an affidavit providing the current or last known  
16 address of the client and describing the efforts made to notify the client of the motion to withdraw.  
17 *Id.*

18           Further, “[w]ithdrawal as attorney is governed by the Rules of Professional Conduct of  
19 the State Bar of California, and the attorney shall conform to the requirements of those Rules.”  
20 *Id.* The California Rules of Professional Conduct provide that if the rules of a court require  
21 permission for an attorney to withdraw, the attorney may not withdraw from employment in a  
22 proceeding without the permission of such court. Cal. R. Prof. Conduct 1.16(c). Also, counsel  
23 must take reasonable steps to avoid prejudicing the rights of the client, including providing  
24 notice, allowing time for the client to employ other counsel, and complying with applicable laws  
25 and rules. Cal. R. Prof. Conduct 1.6(d). Grounds for permissive withdrawal exist when “the  
26 client by other conduct renders it unreasonably difficult for the lawyer to carry out the  
27 representation effectively.” Cal. R. Prof. Conduct 1.6(b)(4).

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1           **Discussion**

2           Here, Plaintiffs' counsel provides insufficient details to permit the Court to adequately  
3 balance the equities in deciding whether to grant the relief requested based on the grounds  
4 asserted (a new conflict of interest and breakdown in communications). *See United States v.*  
5 *Carter*, 560 F.3d 1107, 1113 (9th Cir. 2009); *CE Res., Inc. v. Magellan Grp., LLC*, No. 2:08-cv-  
6 02999-MCE-KJM, 2009 WL 3367489, at \*2 (E.D. Cal. Oct. 14, 2009) (noting that "[u]ltimately,  
7 the court's ruling must involve a balancing of the equities"). Thus, for instance, although  
8 counsel's motion appears to implicate Cal. R. Prof. Conduct 1.16(b)(4), his declaration does not  
9 demonstrate that the recent breakdown in communications he attests to experiencing with his  
10 clients "renders it unreasonably difficult for the lawyer to carry out the representation  
11 effectively." Cal. R. Prof. Conduct 1.16(b)(4).<sup>1</sup>

12           The sparse information provided in counsel's motion and declaration fails to explain with  
13 any particularity the nature of the newly discovered conflict of interest, nor the circumstances  
14 that resulted in the breakdown. As counsel provides only general and conclusory assertions  
15 regarding any conflict of interest or breakdown in communication, the Court is unable to  
16 sufficiently balance the equities in deciding upon the requested relief. Further, the Court notes  
17 that there is a pending motion to dismiss (Doc. 47) and, as a result, the case has not been  
18 scheduled and discovery has not commenced. As such, absent further information or explanation  
19 by counsel, it is unclear to the Court how the circumstances counsel refers to in moving to  
20 withdraw materially affects the litigation at this stage of the proceedings.

21           Accordingly, counsel's motion to withdraw will be denied without prejudice. Counsel  
22 may file a renewed motion to withdraw supported by an accompanying affidavit setting forth  
23 with sufficient particularity the circumstances counsel asserts support withdrawal. Counsel may  
24 include an accompanying application to seal, as appropriate, should he deem the information to  
25 be disclosed protectible under Local Rule 141 as privileged or otherwise. In short, the Court  
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27           <sup>1</sup> In his motion, counsel cites to California Rules of Professional Conduct 1.7 and 1.16(b)(4),  
28 which are current, but also cites to Rule 3-700(b) of the 1992 Rules of Professional Conduct, which  
was superseded on November 1, 2018. *See* (Doc. 59 at 3).

1 requires details about the newly discovered conflict of interest and the circumstances prompting  
2 counsel to assert that communications have broken down, including among other details, the  
3 nature and format/form (*i.e.*, mail, email, telephone, text) of counsel's communications or  
4 attempted communications with the clients, the dates on which counsel did or attempted to  
5 communicate with the clients, the dates of any responses by the clients, a description of what  
6 prompted the breakdown of communications, and a description of the asserted conflict of  
7 interest.

8 **Conclusion and Order**

9 For the reasons stated above, counsel for Plaintiffs' motion to withdraw (Doc. 59) is  
10 HEREBY DENIED without prejudice. Any renewed motion shall be supplemented with a  
11 supporting declaration of counsel and accompanying application to seal consistent with Local  
12 Rule 141, if appropriate, in which counsel provides additional details regarding the bases for  
13 withdrawal, as described above.

14 Any renewed motion to withdraw by counsel for Plaintiff shall be noticed for hearing  
15 and served upon Plaintiffs in accordance with Local Rule 182.

16 IT IS SO ORDERED.

17 Dated: **January 6, 2026**

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UNITED STATES MAGISTRATE JUDGE